

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA and
CHUNG NGO, Revenue Agent,
Petitioners,
v.
RICHARD IVALDI,
Respondent.

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No. C-10-1277-MHP

{Proposed}
ORDER TO SHOW

THIS MATTER came before the Court on June 28, 2010, for a status hearing to determine whether Respondent Richard Ivaldi had complied with this Court's Order Enforcing Summons, dated May 20, 2010, which ordered the Respondent to appear, testify and produce documents to Internal Revenue Service Revenue Agent Chung Ngo on June 7, 2010, in response to an administrative Internal Revenue Service Summons served upon the Respondent on January 25, 2010. Petitioner Ngo appeared at the hearing. Respondent Richard Ivaldi did not appear at the June 28, 2010 hearing.

The Court having read and considered the papers and files in this case, and having heard and considered any arguments and evidence presented by the parties at the hearing, and for good cause shown,

THE COURT HEREBY FINDS that pursuant to the May 20, 2010 Order Enforcing Summons, the Respondent, Richard Ivaldi, was ordered to appear before Revenue Agent Chung Ngo on June 7, 2010, to provide testimony and documents responsive to an administrative Internal Revenue Service Summons served upon the Respondent on January 25, 2010. The Respondent did not appear before Agent Ngo on June 7, 2010, as ordered, and failed to provide any oral testimony or produce any documents or records in response to the underlying summons,

1 and such failures continue to date. The Petitioners have established by clear and convincing
 2 evidence that the Respondent has failed to fully comply with the Court's May 10, 2010, Order
 3 Enforcing Summons, fulfilling their burden to make a *prima facie* showing of contempt. United
 4 States v. Rylander, 714 F.2d 996, 1001 (9th Cir. 1983).

5 **THE COURT HEREBY FINDS** that though the Respondent was provided with an
 6 opportunity to establish why he was unable to presently comply with the Court's Order, the
 7 Respondent failed to provide any evidence of his present inability to comply. He has, therefore,
 8 failed to meet his burden of proof.

9 Accordingly,

10 **IT IS HEREBY ORDERED** that the Respondent, Richard Ivaldi, appear before this
 11 Court on **August 2, 2010, at 3:00 p.m.**, to show cause, if any, why Respondent Richard Ivaldi
 12 should not be held in contempt of this Court for his failure to comply with this Court's Order
 13 Enforcing Summons.

14 **IT IS FURTHER ORDERED** that the Respondent, Richard Ivaldi, appear before this
 15 Court on **August 2, 2010, at 3:00 p.m.**, and provide any oral testimony and to produce
 16 documents and records in response to the underlying summons.

17 **IT IS FURTHER HEREBY ORDERED** that if the Respondent, Richard Ivaldi, fails to
 18 fully comply with the Court's May 10, 2010 Order Enforcing Summons by failing to either
 19 appear before an agent of the Internal Revenue Service, provide full and complete oral
 20 testimony, or produce all records responsive to the underlying administrative IRS summons to
 21 this Court on or before August 2, 2010, he shall immediately thereafter be arrested by the United
 22 States Marshals pursuant to this Court's bench warrant, and imprisoned until he fully complies
 23 with the Court's May 10, 2010 Order Enforcing Summons.

24 **ORDERED** this 1st day of July, 2010.

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 28 [Proposed] Order to Show
 Cause, US et al. v. Ivaldi,
 Case No. 10-1277-MHP

